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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,231	04/07/2004	Jeffrey A. Whited	14-728P/US C1	7482
7590	03/07/2005		EXAMINER	
WATTS, HOFFMANN CO., L.P.A. P.O. Box 99839 Cleveland, OH 44199-0839			GOODMAN, CHARLES	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/820,231	WHITED ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles Goodman	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 10-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. 10/070402.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/7/04.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**SUPPLEMENTAL DETAILED ACTION**

1. The Preliminary Amendment filed on 4/7/2004 has been entered.
2. The drawings were received on 4/7/2004. These drawings are approved.
3. Due to the fact that the above amendment was not noted in the last Office Action, the current Office Action is a Supplemental.

***Information Disclosure Statement***

4. The IDS filed on 4/7/2004 was previously noted in the last Office Action. However, upon further review, it appears that one of the references, McCullough (US 4,75,937 (?) - as designated in the IDS) is in error. As such, the Examiner has corrected this oversight by replacing it with the correct reference number, 4,575,937. In addition, the two foreign references that Applicant notes in the IDS have been crossed out to the extent that these references are not available for scanning. To further explain, it is noted that the above IDS have references cited in the parent application. However, to make the current electronic record clear for the current application, they have been crossed out, and the Examiner has taken the liberty to include them in the attached PTO Form-892. Along the same lines, the two PCT IPERs have also been crossed out to the extent that it is respectfully requested that copies thereof be provided by Applicant for scanning purposes.

In sum, both PCT documents have been crossed out in turn requesting Applicant to resubmit them with copies thereof in a subsequent IDS.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Decker et al '915 (US 4,894,915).

Decker et al '915 discloses a rotary knife comprising all the elements claimed including, inter alia, an annular blade (16); a blade support assembly (Fig. 1); a manually grippable handle assembly (12); a drive transmission (102); a core (near 95 in Fig. 1) having the regions as claimed and defining a drive transmission channel; a hand grip (22) having the regions as claimed; and a connector (e.g. 136). See Figs. 1-12.

7. Claims 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bettcher '683 (US 4,178,683 A).

Bettcher '683 discloses a hand knife with a rotary blade comprising all the elements claimed including, inter alia, an annular split body (16); first and second axially extending projections (at 36 in Fig. 3) disposed on one side of a split (18); third and fourth axially extending projections (at 38 in Fig. 3) disposed on the other side of the split; grooves (e.g., 44, 46); and slots (e.g. 40, 42). See Figs. 1-8.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whited '184 (US 6,769,184) in view of Whited et al '332 (US 5,664,332).

Whited '184 discloses the invention substantially as claimed including, *inter alia*, an annular blade supporting member having a split housing (30) and fasteners (36, 38) - Figs. 1-4 - except that Whited '184 lacks a clamp member. In that regard, Whited et al '332 teaches a slicing gauge (20) that clamps the split housing, in a confronting relationship, to the head member (e.g. 32) of the hand knife handle (12). Fig. 1, c. 5, ll. 14-32. The slicing gauge of Whited et al '332 is deemed to be a clamp member to the extent that it performs a clamping function substantially the same as Applicant's clamp

member with the additional benefit of performing a gauging function. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the device of Whited '184 with the slicing gauge/clamp member as taught and suggested by Whited et al '332 in order to facilitate controlled depth slicing of the work.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Decker et al '046 (US 4,854,046 A) in view of McCullough.

Decker et al '046 discloses the claimed invention substantially as claimed except for a manually shiftable steel actuator member supported for movement along a second line of action that is neither parallel to, nor coextensive with the first line of action. In that regard, McCullough teaches that it is old and well known in the art to use a manual actuator with a line of action other than the line of action of the structure being actuated for the purpose of facilitating quick adjustments to the actuated structure. More specifically, McCullough teaches a manual shiftable actuator member (65) which acts in a line of action neither parallel nor coextensive with the line of movement of the plate (25) for the purpose of quick and easy controlled adjustments of the same. Figs. 1-12, c. 6, l. 26 - c. 8, l. 56. Thus, it would have been obvious to the ordinary artisan at the time the invention was made to provide the device of Decker et al '046 with the manually shiftable actuator member as taught or suggested by McCullough in order to facilitate quick and controlled adjustment of the steel.

### ***Conclusion***

12. Whited '142 (US), Whited '431 (EP), and Decker et al '351 (EP) are cited as pertinent art and in part to have the foreign references scanned into the PTO electronic

file system.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (571) 272-4508. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (571) 272-4514. In lieu of mailing, it is encouraged that all formal responses be faxed to (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

  
**Charles Goodman**  
**Primary Examiner**  
**AU 3724**

cg   
March 2, 2005

